

FILED

1 DAVID G. SPIVAK, State Bar # 179684  
2 THE SPIVAK LAW FIRM  
3 9454 Wilshire Blvd.  
4 Suite 303  
5 Beverly Hills, CA 90212

6 Telephone (310) 499-4730  
7 Facsimile (310) 499-4739  
8 Email [david@spivaklaw.com](mailto:david@spivaklaw.com)

2008 SEP 17 PM 3:18

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

9 Attorney for Plaintiff,  
10 DANIEL ALVAREZ

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 DANIEL ALVAREZ,

14 *Plaintiff(s),*

15 vs.

16 COUNTY OF LOS ANGELES; LOS  
17 ANGELES COUNTY SHERIFF'S  
18 DEPARTMENT; ROBERT FULOP;  
19 KENNETH DAILY; STEVE SATHER;  
20 DEPUTY FRAZIER, first name unknown;  
21 and DOES 1 THROUGH 10, in their  
22 individual and official capacities,

23 *Defendant(s).*

Case No. **CV08-06118**

**COMPLAINT FOR CIVIL RIGHTS  
VIOLATIONS PURSUANT TO 42 U.S.C.  
§ 1983 AND VIOLATIONS OF STATE  
LAW**

**\*JURY TRIAL DEMANDED\***

24 **INTRODUCTION**

25 1. This is an action for money damages brought pursuant to 42 U.S.C. § 1983 and  
26 1988, and the Fourth and Fourteenth Amendments to the United States Constitution, and under  
27 the common law of the State of California, against several deputies and employees of the LOS  
28 ANGELES COUNTY SHERIFF'S DEPARTMENT for Defendant COUNTY OF LOS  
ANGELES, in their individual capacities and against Defendant COUNTY OF LOS ANGELES.

1 Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343, and on the pendent jurisdiction of this  
2 Court to entertain claims arising under state law.

3 2. It is alleged that the Individual Defendants - individual sheriff's deputies, agents  
4 and employees employed by Defendant COUNTY OF LOS ANGELES - made an unreasonable  
5 seizure of the person of Plaintiff DANIEL ALVAREZ, violating his rights under the Fourth and  
6 Fourteenth Amendments to the United States Constitution, and that these defendants assaulted  
7 and battered Plaintiff. It is further alleged that these violations and torts were committed as a  
8 result of policies and customs of Defendant COUNTY OF LOS ANGELES.

9  
10 **JURISDICTION AND VENUE**

11 3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, §  
12 1343(a)(3), § 1343(a)(4), and § 1367.

13 4. Venue is appropriate in the Central District of California under 28 U.S.C. § 1391  
14 because the Defendants reside in the Central District of California, all Defendants reside in the  
15 same State, and all of the events or omissions giving rise to the claim occurred in the Central  
16 District of California.

17 **PARTIES**

18 5. Plaintiff DANIEL ALVAREZ was at all material times a resident of the County  
19 of Los Angeles, State of California.

20 6. Defendant COUNTY OF LOS ANGELES is a public entity, organized under the  
21 laws of the State of California with the capacity to sue and be sued. DEFENDANT COUNTY  
22 OF LOS ANGELES is sued in its own right and on the basis of the acts of its officers,  
23 employees, and agents, which were taken pursuant to Defendant COUNTY OF LOS ANGELES  
24 custom and policy. At all times relevant herein, the officers, employees, and agents of Defendant  
25 COUNTY OF LOS ANGELES were acting under color of state law.

26 7. Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT is a public  
27 entity, organized under the laws of the State of California with the capacity to sue and be sued.  
28 Defendant COUNTY OF LOS ANGELES is the legal and political entity responsible for the  
actions of the LOS ANGELES COUNTY SHERIFF'S DEPARTMENT and its officers and



1 employees. Defendant LOS ANGELES COUNTY SHERIFF'S DEPARTMENT is a department  
2 of Defendant COUNTY OF LOS ANGELES government. At all times relevant herein, the  
3 officers, employees, and agents of Defendant LOS ANGELES COUNTY SHERIFF'S  
DEPARTMENT were acting under color of state law.

4 8. Defendant ROBERT FULOP is a sheriff's deputy, police officer, employee and/or  
5 agent of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
6 SHERIFF'S DEPARTMENT, and is sued in his individual and official capacities.

7 9. Defendant KENNETH DAILY is a sheriff's deputy, police officer, employee  
8 and/or agent of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
9 SHERIFF'S DEPARTMENT, and is sued in his individual and official capacities.

10 10. Defendant STEVE SATHER is a sheriff's deputy, police officer, employee and/or  
11 agent of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
SHERIFF'S DEPARTMENT, and is sued in his individual and official capacities.

12 11. Defendant DEPUTY FRAZIER whose first name is unknown to Plaintiff, is a  
13 sheriff's deputy, police officer, employee and/or agent of Defendants COUNTY OF LOS  
14 ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, and is sued in his  
15 individual and official capacities.

16 12. Doe Defendants 1 through 10 are sheriff's deputies, police officers, employees  
17 and/or agents of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
18 SHERIFF'S DEPARTMENT, and are sued in their individual and official capacities. The true  
19 names of Does 1 through 10 are presently unknown to Plaintiff. Plaintiff will seek leave of the  
20 court to amend this complaint to name these individuals upon learning their true identities and  
21 roles in the actions complained of. Currently, Plaintiff sues Does 1 through 10 as fictitiously-  
22 named Defendants. Plaintiff is informed and believes that these unknown persons were involved  
23 in and are legally responsible for the wrongful actions alleged in this complaint. At all relevant  
times, these Defendants were acting under color of law.

24 13. The Doe Defendants and Defendants FULOP, DAILY, SATHER, and FRAZIER  
25 are referred collectively as "the Individual Defendants."

26 14. Unless otherwise indicated, each Defendant is sued as the agent and/or employee  
27 of every other Defendant acting within the course and scope of said agency and/or employment,  
28 with the knowledge and/or consent of said co-Defendants.

16. On information and belief, at all times mentioned herein, Defendants and other LOS ANGELES COUNTY SHERIFF'S DEPARTMENT officers, employees, and agents have acted pursuant to the official policies and customs of Defendant COUNTY OF LOS ANGELES, policies and customs that have been approved of, ratified, and/or enforced by the persons and/or entities with the authority to set policy for the LOS ANGELES COUNTY SHERIFF'S DEPARTMENT.

17. On May 12, 2007, at approximately 5:00 a.m. at or near 1130 E. Joel St., Carson, California 90745, several LOS ANGELES COUNTY SHERIFF'S DEPARTMENT deputies, including the Individual Defendants, intercepted ALVAREZ, threw him to the ground causing injuries to his head, back, legs and arms and kicked and punched him repeatedly at times using weapons – all without any cause. ALVAREZ did not resist the deputies during this assault and battery. They continued to strike ALVAREZ even as he cried out in pain.

18. At no point during any of the encounters with LOS ANGELES COUNTY SHERIFF'S DEPARTMENT deputies described above was ALVAREZ armed. At no point during any of the encounters with LOS ANGELES COUNTY SHERIFF'S DEPARTMENT deputies described above did ALVAREZ resist. At no point in time did ALVAREZ act in a threatening or violent manner toward the Defendants or anyone else. At no point during any of the encounters with LOS ANGELES COUNTY SHERIFF'S DEPARTMENT deputies described above did any LOS ANGELES COUNTY SHERIFF'S DEPARTMENT deputy read ALVAREZ his rights.

19. The deputies committed the acts described above without a warrant, consent, probable cause or exigent circumstances.

20. At the location and date identified above, the deputies and their agents restrained ALVAREZ's liberty of movement by beating him and holding him in place against his will. They



1 infringed on ALVAREZ's constitutional rights to safety, happiness and privacy by jailing him,  
2 confiscating his property, and beating him.

3 21. Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
4 SHERIFF'S DEPARTMENT and their agents were negligent in hiring the other deputies and  
5 their agents who committed the acts described above. They had reason to know that the other  
6 deputies and their agents, because of their qualities, were likely to harm ALVAREZ in view of  
7 the work entrusted to them. The dangerous qualities that deputies and their agents were aware of  
8 upon hiring the other deputies and their agents caused the harm suffered by ALVAREZ.

9 22. Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
10 SHERIFF'S DEPARTMENT and their agents were negligent in training the other deputies and  
11 their agents who committed the acts described above. They had reason to know that the other  
12 deputies and their agents, because of their inadequate training, were likely to harm ALVAREZ in  
13 view of the work entrusted to them. The inadequate training that deputies and their agents were  
14 aware of at the time of the events in question caused the harm suffered by ALVAREZ.

15 23. Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
16 SHERIFF'S DEPARTMENT and their agents were negligent in supervising the other deputies  
17 and their agents who committed the acts described above. They had reason to know that the  
18 other deputies and their agents, because of their inadequate supervision, were likely to harm  
19 ALVAREZ in view of the work entrusted to them. The inadequate supervision that deputies and  
20 their agents were aware of at the time of the incidents in question caused the harm suffered by  
21 ALVAREZ.

22 24. Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
23 SHERIFF'S DEPARTMENT and their agents were negligent in continuing the employment of  
24 the other deputies and their agents who committed the acts described above. They had reason  
25 to know that the other deputies and their agents, because of their qualities, were likely to harm  
26 ALVAREZ in view of the work entrusted to them. The dangerous qualities that Deputies and  
27 their agents were aware of while continuing to employ the other Deputies and their agents caused  
28 the harm suffered by ALVAREZ.

29 25. Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY  
30 SHERIFF'S DEPARTMENT and their agents had a duty to warn ALVAREZ that there was a  
31 strong likelihood that the other Deputies and their agents would subject ALVAREZ to the

1 actions described above. The Deputies and their agents' failure to do so subjects them to  
2 liability.

3 26. The actions of the Deputies of Defendants COUNTY OF LOS ANGELES and  
4 LOS ANGELES COUNTY SHERIFF'S DEPARTMENT their agents constituted assault,  
5 battery, negligent infliction of emotional distress, intentional infliction of emotional distress,  
6 false imprisonment, violation of right to privacy under the California Constitution Article I, § 1,  
7 violation of right to privacy under California common law, negligent hiring, negligent training,  
8 negligent supervision, negligent retention and failure to warn.

9 27. At no point during any of the encounters with the Defendants described above  
10 was Plaintiff armed. At no point during any of the encounters with the Defendants described  
11 above did Plaintiff resist. At no point during any of the encounters with the Defendants did  
12 Plaintiff act in a threatening or violent manner. At no point during any of the encounters with the  
13 Defendants did any officer read Plaintiff his rights. At no time during the events described  
14 above, was Plaintiff a threat to the safety of themselves or others or disorderly.

15 28. The Defendants committed the acts described above without a warrant, consent,  
16 probable cause or exigent circumstances. The Defendants had no legal cause or excuse to seize  
17 the person of the Plaintiff.

18 29. At all times during the events described above, the Defendants were engaged in a  
19 joint venture. The Defendants assisted each other in performing the various actions described and  
20 lent their physical presence and support and the authority of their office to each other during the  
21 said events.

22 30. At the locations and dates identified above, Defendants and their agents  
23 restrained Plaintiff's liberty of movement by arresting him. They further restrained his liberty of  
24 movement by jailing him overnight. They infringed on Plaintiff's constitutional rights to safety,  
25 happiness and privacy by jailing him and confiscating his property.

26 31. The Defendants and their agents were negligent in hiring the other Officers and  
27 their agents who committed the acts described above. They had reason to know that the other  
28 Defendants and their agents, because of their qualities, were likely to harm Plaintiff in view of  
the work entrusted to them. The dangerous qualities that the Defendants and their agents were  
aware of upon hiring the other Defendants and their agents caused the harm suffered by Plaintiff.



1           32.     The Defendants and their agents were negligent in training the other Defendants  
2     and their agents who committed the acts described above. They had reason to know that the  
3     other Defendants and their agents, because of their inadequate training, were likely to harm  
4     Plaintiff in view of the work entrusted to them. The inadequate training that Defendants and their  
5     agents were aware of at the time of the events in question caused the harm suffered by Plaintiff.

6           33.     The Defendants and their agents were negligent in supervising the other  
7     Defendants and their agents who committed the acts described above. They had reason to  
8     know that the other Defendants and their agents, because of their inadequate supervision, were  
9     likely to harm Plaintiff in view of the work entrusted to them. The inadequate supervision that  
10    Defendants and their agents were aware of at the time of the incidents in question caused the  
11    harm suffered by Plaintiff.

12           34.     The Defendants and their agents were negligent in continuing the employment  
13    of the other Defendants and their agents who committed the acts described above. They had  
14    reason to know that the other Defendants and their agents, because of their qualities, were likely  
15    to harm Plaintiff in view of the work entrusted to them. The dangerous qualities that  
16    Defendants and their agents were aware of while continuing to employ the other Officers and  
17    their agents caused the harm suffered by Plaintiff.

18           35.     The Defendants and their agents had a duty to warn Plaintiff that there was a  
19    strong likelihood that the other Defendants and their agents would subject Plaintiff to the actions  
20    described above. The Defendants and their agents' failure to do so subjects them to liability.

21           36.     As a consequence of Plaintiff's treatment by certain LOS ANGELES COUNTY  
22    SHERIFF'S DEPARTMENT officers described above, Plaintiff suffered damages, including  
23    physical injuries, as well as emotional distress and humiliation, violation of their constitutional  
24    rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free  
25    from an unreasonable search and seizure of his person.

26           37.     The actions of the Defendants violated the following clearly established and well  
27    settled federal constitutional rights of Plaintiff: (a) Freedom from the unreasonable seizure of his  
28    person; (b) Freedom from the use of excessive, unreasonable and unjustified force against his  
29    person.

30    ///

**COUNT 1.**

**42 U.S.C. § 1983 Against Individual Defendants**

38. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

39. Plaintiff claim damages for the injuries set forth above under 42 U.S.C. § 1983 against the Defendants for violation of his constitutional rights under color of law.

**COUNT 2.**

**Assault Against the Individual Defendants**

40. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

41. Defendants assaulted Plaintiff.

42. As a result of this assault, Plaintiff suffered damages as aforesaid.

**COUNT 3.**

**Battery Against the Individual Defendants**

43. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

44. Defendants battered Plaintiff.

45. As a result of this battery, Plaintiff suffered damages as aforesaid.

**COUNT 4.**

**False Arrest and Illegal Imprisonment Against the Individual Defendants**

46. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

47. Defendants illegally arrested and illegally imprisoned Plaintiff.

48. As a result of this false arrest and illegal imprisonment, the Plaintiff suffered the damages as aforesaid.

///

///



**COUNT 5.**

**Intentional Infliction of Emotional Distress Against the Individual Defendants**

49. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

50. Defendants subjected the Plaintiff to outrageous conduct by which Defendants intended to cause, or recklessly in disregard of the probability of causing, emotional distress that led to severe emotional suffering by Plaintiff and is the actual and proximate cause of the Plaintiff's emotional distress. The Defendants conduct was so extreme that it exceeded all bounds of that usually tolerated in a civilized society.

51. As a result of this intentional infliction of emotional distress, Plaintiff suffered damages as aforesaid.

**COUNT 6.**

**Negligent Infliction of Emotional Distress Against the Individual Defendants**

52. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

53. Defendants negligently subjected Plaintiff to outrageous conduct that led to severe emotional suffering by Plaintiff and is the actual and proximate cause of the Plaintiff's emotional distress. The Defendants' conduct was so extreme as to exceed all bounds of that usually tolerated in a civilized society.

54. Defendants Officer One, Two, Three, Four, Five and Six illegally arrested and illegally imprisoned Plaintiff.

55. As a result of this negligent infliction of emotional distress, the Plaintiff suffered the damages as aforesaid.

**COUNT 7.**

**Negligent Hiring Against All Defendants**

56. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

57. The Defendants were negligent in hiring the other Defendants who committed the acts described above. They had reason to know that the other Defendants, because of their

1 qualities, were likely to harm the Plaintiff in view of the work entrusted to them. The dangerous  
2 qualities that Defendants were aware of upon hiring the other Defendants caused the harm  
3 suffered by the Plaintiff.

4 **COUNT 8.**

5 **Negligent Training Against All Defendants**

6 58. Paragraphs 1 through 37 are incorporated herein by reference as though fully set  
7 forth.

8 59. The Defendants were negligent in training the other Defendants who committed  
9 the acts described above. They had reason to know that the other Defendants, because of their  
10 inadequate training, were likely to harm the Plaintiff in view of the work entrusted to them. The  
11 inadequate training that Defendants were aware of at the time of the events in question caused  
12 the harm suffered by the Plaintiff.

13 **COUNT 9.**

14 **Negligent Supervision Against All Defendants**

15 60. Paragraphs 1 through 37 are incorporated herein by reference as though fully set  
16 forth.

17 61. Defendants Officer One, Two, Three and Four illegally arrested and illegally  
18 imprisoned Plaintiff.

19 62. The Defendants were negligent in supervising the other Defendants who  
20 committed the acts described above. They had reason to know that the other Defendants, because  
21 of their inadequate supervision, were likely to harm the Plaintiff in view of the work entrusted to  
22 them. The inadequate supervision that Defendants were aware of at the time of the incidents in  
23 question caused the harm suffered by the Plaintiff.

24 **COUNT 10.**

25 **Negligent Retention Against All Defendants**

26 63. Paragraphs 1 through 37 are incorporated herein by reference as though fully set  
27 forth.

28



64. The Defendants were negligent in continuing the employment of the other Defendants who committed the acts described above. They had reason to know that the other Defendants, because of their qualities, were likely to harm the Plaintiff in view of the work entrusted to them. The dangerous qualities that Defendants were aware of while continuing to employ the other Defendants caused the harm suffered by the Plaintiff.

#### **COUNT 11.**

##### **Failure to Warn Against All Defendants**

65. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

66. The Defendants had a duty to warn Plaintiff that there was a strong likelihood that the other Defendants would subject Plaintiff to the actions described above. The Defendants' failure to do so subjects them to liability.

#### **COUNT 12.**

##### **42 U.S.C. § 1983 Against County of Los Angeles and Los Angeles County Sheriff's Department**

67. Paragraphs 1 through 37 are incorporated herein by reference as though fully set forth.

68. Prior to July 13, 2006, Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of persons in Los Angeles, which caused the violation of Plaintiff's rights.

69. It was the policy and/or custom of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT to inadequately and improperly investigate citizen complaints of police misconduct, and acts of misconduct were instead tolerated by Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT.

70. It was the policy and/or custom of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT to inadequately supervise and train its sheriff's deputies, including the defendant officers, thereby failing to adequately

discourage further constitutional violations on the part of its sheriff's deputies. Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT did not require appropriate in-service training or re-training of officers who were known to have engaged in police misconduct.

71. As a result of the above described policies and customs, sheriff's deputies of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, including the Defendants, believed that their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned, but would be tolerated.

72. The above described policies and customs demonstrated a deliberate indifference on the part of policymakers of Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT to the constitutional rights of persons within the Defendants COUNTY OF LOS ANGELES and LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, and were the cause of the violations of Plaintiff's rights alleged herein.

#### **PRAYER FOR RELIEF**

73. WHEREFORE, Plaintiff seek judgments against each and every Defendant, and all of them, jointly and severally, for:

(A) All actual, consequential and incidental financial losses, including but not limited to loss of earnings, according to proof, including medical expenses occasioned by Defendants' actions;

(B) General damages for emotional distress, humiliation, and for physical and mental injuries;

(C) Punitive damages pursuant to 42 U.S.C. § 1988 or any other provision allowed by law;

(D) Attorney fees pursuant to 42 U.S.C. § 1988 or any other provision allowed by law;

///

///



1 (E) Costs and expenses pursuant to 42 U.S.C. § 1988 or any other provision  
2 allowed by law; and

3 (D) Such other and further relief as the court deems proper.

4  
5 Respectfully submitted,

6 THE SPIVAK LAW FIRM

7  
8 Date: September 16, 2008

9 By:

10   
11 DAVID G. SPIVAK, Attorney for  
12 Plaintiff, DANIEL ALVAREZ

13 **JURY TRIAL DEMANDED**

14 Pursuant to F.R.C.P. 38, Plaintiff demands trial by jury on all claims and counts so triable  
15 by right.

16 Respectfully submitted,

17 THE SPIVAK LAW FIRM

18  
19 Date: September 16, 2008

20 By:

21   
22 DAVID G. SPIVAK, Attorney for  
23 Plaintiff, DANIEL ALVAREZ  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge A. Howard Matz and the assigned discovery Magistrate Judge is Margaret A. Nagle.

The case number on all documents filed with the Court should read as follows:

**CV08- 6118 AHM (MANx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.



DAVID G. SPIVAK, State Bar # 179684  
 THE SPIVAK LAW FIRM  
 9454 Wilshire Blvd.  
 Suite 303  
 Beverly Hills, CA 90212  
 Telephone (310) 499-4730

UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA

DANIEL ALVAREZ,

PLAINTIFF(S)

v.

COUNTY OF LOS ANGELES; LOS ANGELES  
 COUNTY SHERIFF'S DEPARTMENT; ROBERT  
 FULOP; ...(continued on attachment)

DEFENDANT(S).

CASE NUMBER

**CV08-06118** AHM (MANX)

SUMMONS

TO: DEFENDANT(S): \_\_\_\_\_

A lawsuit has been filed against you.

Within \_\_\_\_\_ days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☐ complaint ☐ \_\_\_\_\_ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, DAVID G. SPIVAK, whose address is 9454 Wilshire Blvd., Suite 303, Beverly Hills, CA 90212. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: SEP 17 2008

By: Natalie Gorgier  
 Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Attachment to Summons

(Defendants continued)... KENNETH DAILY; STEVE SATHER; DEPUTY FRAZIER, first name unknown; and DOES 1 THROUGH 10, in their individual and official capacities,

*Defendants(s).*



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**

**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)  
DANIEL ALVAREZ

**DEFENDANTS**  
COUNTY OF LOS ANGELES; LOS ANGELES COUNTY SHERIFF'S  
DEPARTMENT; ROBERT FULOP; KENNETH DAILY; STEVE SATHER;  
AND DEPUTY FRAZIER

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

David G. Spivak, The Spivak Law Firm, 9454 Wilshire Blvd., Suite 303,  
Beverly Hills, CA 90212, (310) 499-4730

Attorneys (If Known)

**I. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only**  
(Place an X in one box for plaintiff and one for defendant.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**V. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**VI. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☐ No

☒ **MONEY DEMANDED IN COMPLAINT:** \$ according to proof

**II. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
civil rights violations resulting from police misconduct

**II. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL PROPERTY</b>	<b>PETITIONS</b>	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General Habeas Corpus	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Fed Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/ Other	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl Ret Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>FORFEITURE / PENALTY</b>	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/ Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	<b>REAL PROPERTY</b>	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<b>IMMIGRATION</b>	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 465 Other Immigration Actions			<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 1950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number:

**CV08-06118**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.



UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

III(a). **IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes  
yes, list case number(s): \_\_\_\_\_

III(b). **RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes  
yes, list case number(s): \_\_\_\_\_

ivil cases are deemed related if a previously filed case and the present case:

- check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

C. **VENUE:** (When completing the following information, use an additional sheet if necessary.)

- ) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES (DANIEL ALVAREZ)	

- ) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES (ALL DEFENDANTS)	

- ) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES (ALL CLAIMS)	

Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties  
ote: In land condemnation cases, use the location of the tract of land involved.

SIGNATURE OF ATTORNEY (OR PRO PER):  Date SEPTEMBER 16, 2008

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))